

Counsel for Parties.

295 U. S.

Harriet E. Cole, the purchaser at the receiver's sale, has asked leave to intervene in this Court, but as she has not acquired through her purchase the title to, or an interest in, the patent, she is not entitled to seek an injunction to restrain infringement. *Crown Die & Tool Co. v. Nye Tool Works*, 261 U. S. 24, 38, 39; *Boomer v. United Power Press Co.*, 13 Blatch. 107, 112, 113; *Kaiser v. General Phonograph Supply Co.*, 171 Fed. 432, 433. The right to such an injunction underlies the equitable jurisdiction here invoked. *Root v. Railway Co.*, 105 U. S. 189. The motion for leave to intervene is denied.

By order of the state court, the receiver, as such, succeeded to the patent right and to the cause of action here involved. But the receiver, while retaining the patent, has disposed, with the approval of the state court, of his entire interest in the present suit against respondent. As the petitioner in these circumstances is not in a position to maintain this suit, the Court is of the opinion that the writ of certiorari should be .

Dismissed.

HOLLINS *v.* OKLAHOMA.

CERTIORARI TO THE CRIMINAL COURT OF APPEALS OF
OKLAHOMA.

No. 686. Argued April 29, 30, 1935.—Decided May 13, 1935.

The evidence in this case shows that the petitioner, a negro, is entitled under the Fourteenth Amendment to a new trial because of the exclusion of negroes from jury service solely on account of their race or color.

56 Okla. Cr. 275, 284; 38 P. (2d) 36, reversed.

CERTIORARI, 294 U. S. 704, to review the affirmance of a conviction upon a charge of rape.

Mr. Charles H. Houston, with whom *Mr. William L. Houston* was on the brief, for petitioner.

Mr. Mac Q. Williamson, Attorney General of Oklahoma, with whom *Mr. Smith C. Matson*, Assistant Attorney General, was on the brief, for respondent.

PER CURIAM.

Petitioner was convicted in the District Court of Okmulgee County, Oklahoma, upon an information charging rape. At the trial, petitioner challenged the jury panel upon the ground that negroes for a long period had been excluded from jury service in that county solely on account of their race or color, and that this discrimination had deprived petitioner of the equal protection of the laws in violation of the Constitution of the United States. Evidence was taken by the trial court upon this issue, the challenge was overruled, and petitioner excepted. Upon appeal, the federal question was presented to the Criminal Court of Appeals and was decided against petitioner. This Court granted a writ of certiorari, April 1, 1935.

From its examination of the evidence, the Court is of the opinion that the case calls for the application of the principles declared in *Neal v. Delaware*, 103 U. S. 370, 397, and *Norris v. Alabama*, 294 U. S. 587.

The judgment is reversed and the cause is remanded for further proceedings not inconsistent with this opinion.

Reversed.

TEXAS & NEW ORLEANS RAILROAD CO. ET AL. v.
UNITED STATES ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF MISSOURI.

No. 670. Argued May 1, 1935.—Decided May 13, 1935.

Rate-fixing orders of the Interstate Commerce Commission sustained.
10 F. Supp. 198, affirmed.